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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,947	09/17/2001	Bjorn Hamsten	ALBIHN-407	2562
530	7590	03/10/2005	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			SHARMA, RASHMI K	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/857,947

Applicant(s)

HAMSTEN, BJORN

Examiner

Rashmi K. Sharma

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 7, 9-15 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Pazdernik (U.S. Patent number 4,779,715).

Pazdernik discloses an apparatus and method for controlling units (12) within a continuous flow from at least one variable or constant speed incoming feeder track (14) into at least one outgoing feeder track (towards the right of Figure 2, beyond 16), comprising at least one shifting unit (16) having variable or constant speed for controlled shifting of said flow into a plurality of selectable paths (please read column 2 lines 54-57), of said outgoing feeder track, wherein said shifting unit (16) is provided with means (34, 36) for controlling the speeds (please read column 5 lines 18-29) of the respective units (12), utilizing a controlled acceleration of the units exceeding the speed of the flow within the incoming track (14), thereby creating a spacing between units (12), while maintaining said continuous flow of said units without arresting said continuous flow, for separation of the units (12) in the longitudinal direction of flow, said separation enabling said controlled shifting (see Figure 3). The apparatus also is capable of counting gaps

between units (12), thereby keeping a count of units shifted. The apparatus also discloses a plurality of selectable paths that are horizontally and vertically spaced.

Pazdernik also discloses a shifting unit (16) that is pivotally arranged about a pivot axis (24, 26) and wherein the selectable paths are substantially parallel to one another. The shifting unit (16) reciprocates the second outfeed ends, thereby forming multiple rows (please read column 4 lines 1-6). Since multiple rows are being formed on the conveyor, any two rows formed on the same conveyor must necessarily be parallel to one another. This feature is considered to be inherent to this invention due the reciprocating second outfeed ends.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pazdernik ('715) in view of Spatafora (U.S. Patent number 5,915,523).

Pazdernik, as disclosed above fails to show the method of forming bundles.

Spatafora does disclose the method of forming bundles.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to illustrate the method of forming bundles as disclosed in Spatafora's invention to that of Pazdernik's invention to specify exactly what the

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arrangements of the units downstream of the shifting unit would be, based on Pazdernik's invention. One having ordinary skill in the art would recognize that Pazdernik's units, as disclosed above are in fact capable of being arranged in bundles for further packing.

### ***Response to Arguments***

Applicant's arguments filed 12/3/04 have been fully considered but they are not persuasive.

Applicant argues that Pazdernik does not disclose a means for controlling the speeds of the respective units, for separation of the units (12) in the longitudinal direction of the flow by the shifting unit. The Examiner would like to make reference to Figure 3, by pointing out that the units (12) depicted in this figure have indeed been accelerated by the belt means 34 and 36. The spacing of units (12) on the incoming feeder track (14) can be seen in Figure 1 and in Figure 3 the spacing change can be seen created between belt mean 34 and 36. As can be seen clearly from Figure 3, different spacing between the units throughout the flow through the lane divider (10) is achieved.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 703-306-5952. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN D. LILLIS  
SUPERVISORY PATENT EXAMINER  
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